

# **COMMISSION ON APPELLATE COURT APPOINTMENTS**

## **MINUTES**

**October 8, 2020**

**PRESENT:** Chief Justice Robert Brutinel, Chair; Ammon Barker; Laura Ciscomani; Buchanan Davis; William Gresser; Tracy Munsil; Gerald Nabours; Jonathan Paton; Daniel Seiden; Kevin Taylor; Kathryn Townsend; Tina Vannucci; Linley Wilson and James Zieler

**REMOTELY:** Jaime Chamberlain

**ABSENT:** Larry Suci

Chief Justice Brutinel called the meeting to order at 8:00 a.m. to interview candidates for nomination to the Arizona Independent Redistricting Commission. He announced that Jaime Chamberlain was not feeling well and would join the meeting via Zoom and Larry Suci would not be present.

He also introduced Kate Sawyer and Marjorie Becklund from the Attorney General's office.

### **Public Comment**

Chief Justice Brutinel called for comment from the public on the applicants. Most speakers were present via Zoom. He asked speakers to limit their comments to three minutes.

- Ron Ober spoke in favor of candidate Ernest Calderon.
- Tamalyn Lewis spoke in favor of candidate Ernest Calderon.
- Dennis Burke spoke in favor of candidate Ernest Calderon.
- Betsey Bayless spoke in favor of candidate Ernest Calderon.
- Charles Kiefer spoke in favor of candidate Ernest Calderon.
- Nick Gudovic spoke in favor of candidate Paul Djuricic.
- Ken Clark shared concerns regarding candidate Nick Dranias.
- Steve Muratore shared concerns regarding candidate Nick Dranias, Rodolfo Espino and Thomas Loquvam and spoke in favor of the written comments submitted by representative Jennifer Longdon.
- State Representative Jennifer Longdon shared concerns regarding candidate Nick Dranias and asked the Commission to extend the list of candidates to interview more minority applicants.
- Bonnie Boyce-Wilson spoke on behalf of the League of Women Voters of Arizona and asked the Commission to select political balanced nominees.

- Betty Bengston spoke on behalf of the League of Women Voters of Arizona and asked the Commission to select truly independent nominees for the IRC chair.
- Pinny Sheoran spoke on behalf of the League of Women Voters of Arizona and asked the Commission to select five nominees for the IRC chair who are truly independent.
- State Representative Martin Quezada shared concerns regarding the lack of minority candidates the Commission will be interviewing and asked the Commission to extend their list of candidates.
- Dana Allmond spoke to the Commission regarding her application and clarified the information received from the Pima County Recorder's office on her voter registration.
- Gene Mikolajczyk shared concerns regarding candidate Anders Lundin.
- Ted Maxwell spoke in favor of David Mehl.

### **Legal Advice from the Attorney General's Office Regarding Eligibility Questions and Selection of Interview Questions**

At 8:55 a.m. it was moved that the Commission go into executive session to receive legal advice from the Attorney General's Office and to select the questions to be asked of each candidate. The motion was seconded and passed unanimously.

At 10:29 a.m., the Commission returned to public session.

### **Approval of November 16 Minutes**

Gerry Nabours moved that the minutes of the September 17 screening meeting be approved as corrected. The motion was seconded and passed unanimously.

### **Disqualifications and Disclosures**

Kathryn Townsend disclosed that she accidentally spoke with Walter Schoch by confusing some phone numbers. She realized she was speaking to him and ended the call right away.

Gerry Nabours disclosed that Christopher Bavasi listed him as a reference on his application, but he did not discuss the application with him, and he was not aware Mr. Bavasi would list him as a reference.

Laura Ciscomani disclosed that David Mehl is an elder at her church, but she does not believe it is a disqualification.

Ammon Barker disclosed that he accidentally called Walter Schoch trying to find a number for one of his references but did not speak directly with him. He mentioned that Mr. Schoch called him back and left a voice mail with the correct information which he then sent to Ms. Townsend, which was probably where the mixing of numbers occurred.

Daniel Seiden disclosed that Donald Wilson attended a meeting with him at the Governor's office, and that he met Walter "Randy" Schoch in prior political meetings.

Chief Justice Brutinel disclosed that he spoke to one of his colleagues on the Supreme Court regarding Ernest Calderon.

All members who made disclosures indicated that there is nothing in their current or past relationships or acquaintances with the applicants that would prevent them from considering the applications impartially or pose a conflict in voting on the applications.

Linley Wilson noted for the record a response to the letter submitted by legislators regarding the lack of minorities on the list of candidates being interviewed by the Commission. She noted that the application does not require the applicants to list their ethnicity and 25 applicants out of the 138 did not include this information. Out of the 113 applicants who did provide this information only 23 candidates listed a non-white ethnicity. After the previous meeting discussion regarding qualifications of applicants, 17 of the 113 who provided this information (15%) were deemed eligible under the constitutional criteria. The Commission selected 8 of these 17 individuals for interviews. In total, the Commission selected 51 individuals for interviews out of 138 applicants. Eight of the 51 finalists were minorities (15%).

Ms. Wilson also noted that the Constitution requires geographic diversity and of the 138 total applicants, only 21 were not from Pima or Maricopa County which totals to 15% of the applicants. The Commission selected 12 of the 21 applicants that do not reside in Pima or Maricopa County. Therefore, out of the 51 candidates the Commission was interviewing, 23.5% of the candidates are not from Pima and Maricopa Counties.

Laura Ciscomani noted for the record that the Commission is prohibited from recruiting applicants and that she would have liked to see more applicants with diverse ethnic backgrounds. Ms. Ciscomani noted that she believed the Commission did the best they could with the individuals who were presented to them.

### **Investigation Reports**

Gerry Nabours moved to remove Mignonne Hollis, independent applicant, and Kenneth Strobeck, republican applicant, from the list of interviewees due to the information received from the Attorney General regarding lobbyist activities. The motion was seconded and passed by a vote of 12-2-1 with Chief Justice Brutinel abstaining.

Chief Justice Brutinel suggested that the Commission members provide reports of candidates in groups beginning with the independent candidates, then democratic candidates and republican candidates.

The Commission members disclosed due diligence findings for Christopher Bavasi, Megan Carollo, Joseph Citelli, Nicole Cullen, Nicholas Dranias, Thomas Loquvam, Anders Lundin, Erika Schupak Neuberg, Gregory Teesdale and Robert Wilson.

The Commission members continued disclosing their due diligence findings for the Democratic candidates including Elizabeth Bernstein, Grant Buma, Ernest Calderon, Bryan Cooperrider, and Martha Durkin.

Kathryn Townsend moved to go into executive session at 11:43 a.m. The motion was seconded and passed unanimously.

The Commission returned to public session at 11:47 a.m.

The Commission continued with the due diligence findings for Rodolfo Espino, Donald Evans, Grant Freeland and Susan Freeman.

Chief Justice Brutinel disclosed that he is subject to Judicial Performance Review (JPR) and part of that process is meeting with a conference team consisting of a judge, an attorney and a public member to discuss his JPR results. Susan Freeman was the attorney member of his team and they met earlier that week, but he did not discuss this process with her.

The Commission continued disclosing the due diligence findings for Sheila Harris and Art Hinshaw.

The Commission recessed for lunch from 12:00 p.m. to 12:32 p.m.

Chief Justice Brutinel asked the Commission to continue with their due diligence findings for Dale Keyes, Robert Kovitz, Shereen Lerner, Mark Murphy and Mumtaza Rahi-Loo.

Laura Ciscomani asked for legal advice on Ms. Rahi-Loo regarding her current appointment as a Justice of the Peace Pro Tem.

The due diligence reports continued for James Robbins, Derrick Watchman, Maxine White and Teresa Wyatt.

Kate Sawyer, Assistant Attorney General provided a response as to whether a justice of the peace pro tem would be considered public office. She mentioned that in looking at the analysis in the Adams case, which was referenced earlier and looks to the definition of public office in ARS§ 38-101, they do not read anything that exempts a justice of the peace pro tem from that definition and therefore is a disqualification.

A question was raised if she were to resign from her position as a justice of the peace pro tem, would she be eligible. Ms. Sawyer stated that the Constitution asks for applicants to not hold public office within three years.

Daniel Seiden moved to disqualify Mumtaza Rahi-Loo on the basis of holding public office as a justice of the peace pro tem. The motion was seconded and passed by a vote of 12-2-1 with Chief Justice Brutinel abstaining.

The Commission completed the due diligence findings for Teresa Wyatt. Chief Justice Brutinel suggested that the Commission complete the reports for the republican candidates the next morning.

### **Interviews of Independent Candidates**

From 12:59 p.m. to 1:39 p.m., the Commission interviewed Joseph Citelli, Gregory Teesdale, Christopher Bavasi, Anders Lundin and Nicholas Dranias

From 1:58 p.m. to 2:50 p.m., the Commission interviewed Nicole Cullen, Robert Wilson, Megan Carollo, Thomas Loquvam and Erika Schupak Neuberg.

### **Discussion of Independent Applicants and Interviews**

Chief Justice Brutinel opened the floor for discussion. He suggested a straw poll by reading the names alphabetically then the Commission could decide who to add to a tentative list.

Laura Ciscomani asked for advice regarding a potential conflict of interest with Joseph Citelli's application. Mr. Citelli is the legal counsel for the Arizona Registrar of Contractors which is a state agency and they lobby the state legislature. While he is not the legislative liaison she is wondering if there is a conflict of interest.

The Commission discussed the independent applicants' qualifications and the interviews.

Chief Justice Brutinel announced it is his practice not to vote except to resolve a tie.

Kate Sawyer shared that they did not find an obvious conflict of interest with Mr. Citelli's application or the points raised by Ms. Ciscomani.

The Commission continued discussing the interviews and qualifications of the independent applicants.

A straw vote was conducted to focus discussion and determine whether any strong consensus existed on the potential nomination list. The results of the straw poll were:

Christopher Bavasi – 2  
Megan Carollo – 7  
Joseph Citelli – 4  
Nicole Cullen – 12  
Nicholas Dranias – 5

Thomas Loquvam – 11  
Anders Lundin – 0  
Erika Schupak Neuberg – 14  
Gregory Teesdale – 9  
Robert Wilson – 7

The Commission discussed the results of the straw vote.

Linley Wilson moved to revote on Megan Carollo and Robert Wilson who tied with 7 votes each. The motion was seconded and passed by a vote of 14-0-1 with Chief

Justice Brutinel abstaining.

The Commission discussed the need for geographic diversity and the difference between both candidates who received 7 votes. Tracy Munsil suggested a short break to think about which of the two candidates she would cast her vote on. Chief Justice Brutinel called for a second vote on Megan Carollo. The result of her vote was 4 Commission members voted in her favor.

Chief Justice Brutinel called for a second vote on Robert Wilson. The result of his vote was 9 Commission members voted in his favor.

### **Selection of Independent Nominees**

Jonathan Paton moved to finalize the list of independent candidates which included **Nicole Cullen, Thomas Loquvam, Erika Schupak Neuberg, Gregory Teesdale** and **Robert Wilson**. The motion was seconded and passed by a vote of 13-0-2 with Chief Justice Brutinel abstaining.

Chief Justice Brutinel instructed the Commission to continue sharing the due diligence findings of the republican candidates.

The Commission shared the due diligence findings for Trevor Abarzua, Jonathan Allred, Margaret Bevan, Scott Crouch, Lisa Davis, Paul Djurisc, Megan Gould Maestas, Brian Hatheway, Kevin Kopp, David Lane, David Mehl, Brandi Oveson, Walter Schoch, Grant Smith, Michael Striplin, William Turner, Donald Wilson, Edwin Winkeler and Douglas York.

Chief Justice Brutinel thanked the Commission for their work and mentioned he would see them all the following day for the interviews of the democratic and republican candidates. The Commission adjourned at 4:44 p.m.

Respectfully submitted,

Gerald Nabours  
Commission Secretary